

## Mackinac Center Statement of Opposition – House Bill 5623

Steve Delie, Director of Workers for Opportunity

House Bill 5623 extends [PA 312 of 1967](#), which provides for binding arbitration between public police and fire units and local governments, to corrections officers.

Ordinarily, public sector collective bargaining falls under [The Public Employment Relations Act](#) (“PERA”). Under PERA, impasse resolution follows a two-step process, beginning with mediation. Either party can request mediation, which is non-binding. If the parties fail to reach an agreement at mediation, either party can request fact finding. A fact finder is then appointed by the Michigan Employment Relations Commission (“MERC”), who will hold a hearing and make a non-binding, but public, decision based on the evidence and the parties’ briefs. The final step under PERA is for the parties to meet once more to attempt to reach agreement. If an agreement cannot be reached, then the public employer may implement the terms of the contract. The fact that an employer has final say, but is subject to public pressure, allows employers to implement contract terms that are necessary for the public good, but not to take advantage of impasse.

The impasse procedures for Act 312 are substantially less beneficial to municipalities. Under Act 312, if mediation is unsuccessful, either party can submit the issue(s) at impasse to MERC for arbitration. The parties either select a single arbitrator from a list provided by MERC, or select an arbitrator and an advocate for their position, resulting in a 3-person arbitration panel. The arbitrator (or panel) holds a hearing, and evaluates the parties’ last offers based on the [standards](#) described in Act 312. Within 30 days, the arbitrator (or panel) issues a binding decision, which binds both parties. Appeals from these decisions are extremely limited.

Currently, Act 312 only applies to Police and Fire bargaining units, but HB 5623 would extend it to corrections officers. Extending Act 312 poses significant problems for local governments. Act 312 severely hampers local governments’ ability to address funding issues by implementing contract changes. Current economic conditions suggest that any expansion of Act 312 would be disastrous at this time.

In August of last year, Michigan’s 100 largest municipalities had unfunded pension liability [totaling \\$5.572 billion](#). 2020 reporting data is not yet available, but the assumed rate of return on pension funds was set at 7% on [October 21, 2019](#). Given the extreme financial fluctuations resulting from the COVID-19 pandemic, even a 7% return is optimistic

In 2017, Michigan has jails in all 83 of its counties, each of which is staffed by corrections officers. If these employees become subject to Act 312, every county in Michigan would lose the ability to respond to the currently evolving financial conditions by making tough personnel decisions that are necessary for those counties’ fiscal health. Instead, unelected arbitrators will decide county fiscal policy, behind closed doors, without any accountability to the public. The result will be less financially-stable communities, less transparency, and a greater drain on taxpayer funds.

HB 5623 is also not necessary to protect corrections officers. Under PERA, fact finding proceedings are public, and either side may use those decisions to educate the public. If a municipality attempts to take advantage of bargaining units, public pressure can be brought to bear against the officials who are responsible for inappropriate proposals. Thus, continuing to allow corrections officers to be governed by PERA allows local government the flexibility to respond to difficult circumstances without putting corrections officers at risk of being taken advantage of.